

**REMARKS**

Claims 1-20 are pending in the application. Applicant respectfully requests reëxamination.

**I. Response to Drawing Objections**

The drawings were objected to under 37 CFR 1.83(a) for failure to show “upper and lower enclosures being of foam material” as claimed in Claim 1. Applicant has amended Claim 1 to recite both the upper and lower cylindrical enclosures formed of insulating foam material. This amendment is fully supported in the Application at paragraph 0017. Since lower enclosure 13 and upper enclosure 15 are clearly shown in every figure, Applicant requests that this objection be withdrawn.

The drawings were objected to under 37 CFR 1.83(a) for failure to show “skin structure” claimed in Claim 1. Applicant has amended Claim 1 to recite a shim structure, rather than a skin structure. This amendment is fully supported in the Application at paragraph 0019, which describes the shim construction. Since shims 23 are clearly shown on the interior surface of upper enclosure 15 in FIGS. 2-3, Applicant requests that this objection be withdrawn.

The drawings were objected to under 37 CFR 1.83(a) for failure to show “thermal means on the upper enclosure” claimed in Claim 2. Applicant has amended Claim 2 to recite a second thread means, rather than a second thermal means. This amendment is fully supported in the Application at paragraph 0020, which discloses a second thread means 19. Since the second thread means 19 is clearly shown in FIGS. 1-3 and 9 on the exterior surface of upper enclosure 15, Applicant requests that this objection be withdrawn.

The drawings were objected to under 37 CFR 1.84(p)(5) for failure to include the reference number “11”, which is mentioned in paragraph .0017 of the specification.

Applicant has amended paragraph 0017 of the Application by deleting reference number 11.

Accordingly, Applicant requests withdrawal of this objection.

## **II. Response to Specification Objections**

The specification was objected to under 37 CFR 1.75(d)(1) and MPEP 608.01(o) for failure to provide antecedent basis for the term “skin structure” claimed in Claim 1. Applicant submits that Claim 1, as amended, cures this problem. Applicant therefore requests withdrawal of the objection to the specification.

## **III. Response to Rejections Under 35 USC § 112**

Claims 1-20 were rejected under 35 USC § 112, second paragraph, for indefiniteness. In particular, Claim 1 was rejected for insufficient antecedent basis for the term “the second enclosure”, and for double inclusion of the term “first end”. Also, Claim 2 was rejected for insufficient antecedent basis for the term “said … second thread means”.

As for Claim 1, Applicant has amended the claim by deleting the term “the second enclosure”. Applicant has also amended Claim 1 to clarify the recitations of the term “first end”. Applicant therefore requests withdrawal of the § 112 rejections of Claim 1.

As for Claim 2, Applicant has amended the claim by providing proper antecedent basis for the term “said … second thread means”. Applicant therefore requests withdrawal of the § 112 rejection of Claim 2.

## **IV. Response to Rejections Under 35 USC § 103**

Claims 1-20 stand rejected under 35 USC § 103(a) for obviousness over US Patent 5,390,804 (“Beggins”) in combination with one or more additional references. Applicant respectfully traverses.

In particular, Applicant emphasizes the following patentable features of the present invention over the cited art: (i) an invertible upper enclosure insertable within a lower enclosure second-end-first or first-end first; (ii) shim structures on an inside circumference of

an invertible upper enclosure for grasping a beverage can, and (iii) retaining means such as threads, grooves, and undulations formed as an integral part of rigid foam material that comprises an enclosure.

Well-established patent law holds that a rejection based on 35 USC § 103 cannot be sustained unless the cited reference(s) (a) provide a suggestion or motivation to combine reference teachings; (b) provide a reasonable expectation of success; and (c) teach all of the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Applicant respectfully requests that the § 103 rejections be withdrawn because none of the cited references, either singly or in any combination, teach all the limitations of any single claim, and in particular, fail to teach or suggest the patentable features noted above.

**A. Claims 1-20**

Turning to Claim 1, no combination of Beggins in view of US Patent 5,375,898 (“Ohmori”), US Patent 6,604,649 (“Campi”), and/or US Patent 3,779,298 (“Piccirilli”) teaches or suggests the following limitation of Claim 1, as amended:

*a shim structure located in the cylindrical section of the upper cylindrical enclosure; the shim structure adapted to grasp the exterior of a cylindrical beverage can pushed through the circular rim and into the cylindrical section*

Applicant submits that Claim 1, as amended, is allowable over the cited references. Since claims 2-20 all depend from Claim 1, Applicant submits that all claims are allowable on this basis alone.

**B. Also as to Claims 2-5**

Claims 2-5 were rejected as obvious over Beggins in view of Ohmori, Campi, Piccirilli, and in further view of US Patent 4,823,974 (“Crosser”). Crosser is cited for its teachings relative to threaded connection of upper and lower container portions. No

combination of these references teaches or suggests the following claim limitation of Claim 2:

*said first and second thread means cooperating during insertion of said upper enclosure in said lower enclosure and retaining said upper enclosure located within said lower enclosure, whether the upper enclosure is inserted into the lower enclosure, second end first or first end first*

No containers disclosed by Crosser, either alone or in combination with other cited reference(s), include an upper enclosure threadable within a lower enclosure regardless of whether the first enclosure is threaded first-end-first or second-end-first with respect to the second enclosure. Claims 3-5 also contain this limitation through dependency. Therefore, Applicant submits that Claims 2-5 are allowable over the cited references on this basis.

**C. Also as to Claim 5**

In addition, Claim 5 includes the following limitations:

*a first thread means located on the inside of said lower cylindrical enclosure; and a second thread means formed on ... said upper cylindrical enclosure ... wherein the upper and lower enclosures are constructed of a rigid insulating foam material*

Since no combination of the cited references teaches or suggests forming threads on enclosures constructed of rigid foam material, Applicant submits that Claim 5 is allowable on this basis.

**D. Also as to Claims 6-14**

Claims 6-14 were rejected as obvious over Beggins in view of Ohmori, Campi, Piccirilli, and in further view of US Patent 4,487,327 (“Grayson”). Grayson is cited for its

teachings relative to locking two halves of an “edible, digestible” enclosure by means of circumferential grooves. Grayson, 2:65-66.

**a. Claims 6-8**

Grayson, however, fails to teach the following limitation of Claim 6:

*the first and second series of grooves cooperating to retain said upper enclosure located within said lower enclosure, whether the upper enclosure is inserted into the lower enclosure, second end first or first end first*

No containers disclosed by Grayson, either alone or in combination with other cited reference(s), include an upper enclosure retainable within a lower enclosure regardless of whether the first enclosure is inserted first-end-first or second-end-first with respect to the second enclosure. Claims 7-8 also contain this limitation through dependency. Therefore, Applicant submits that Claims 6-8 are allowable over the cited references on this basis.

**b. Claim 8**

In addition, Claim 8 contains the following limitations:

*grooves on the inside of said lower cylindrical enclosure; and ...  
grooves formed on a lower portion of the exterior surface of said upper enclosure ... wherein the upper and lower enclosures are constructed of a rigid insulating foam material*

Since no combination of the cited references teaches or suggests forming grooves on enclosures constructed of rigid foam material, Applicant submits that Claim 8 is allowable on this basis.

**c. Claim 11**

In addition, Claim 11 contains the following limitations:

*a series of circumferential grooves on the inside of said lower cylindrical enclosure; and a circumferential ridge at the second end of the upper enclosure ... wherein the upper and lower enclosures are constructed of a rigid insulating foam material*

Since no combination of the cited references teaches or suggests forming grooves and ridges formed on enclosures constructed of rigid foam material, Applicant submits that Claim 11 is allowable on this basis.

**d. Claim 14**

In addition, Claim 14, as amended, contains the following limitations:

*a first series of circumferential undulations on the inside of said lower cylindrical enclosure; and a second series of circumferential undulations formed on ... said upper enclosure ... wherein the upper and lower enclosures are constructed of a rigid insulating foam material*

Since no combination of the cited references teaches or suggests forming undulations on enclosures constructed of rigid foam material, Applicant submits that Claim 14 is allowable on this basis.

**E. Also as to Claims 15-20**

Claims 15-20 were rejected as obvious over Beggins in view of Ohmori, Campi, Piccirilli, and in further view of US Patent 5,829,591 (“Lyons”). Lyons is cited for its teachings relative to locking mechanisms for retaining two halves of a container.

Lyons, however, fails to teach the following limitation of Claim 15 and Claim 18:

*the latch and circumferential grooves cooperating to retain said upper enclosure within said lower enclosure, whether the upper*

*enclosure is inserted into the lower enclosure, second end first or  
first end first*

No containers disclosed by Lyons, either alone or in combination with other cited reference(s), include an upper enclosure retainable within a lower enclosure regardless of whether the first enclosure is inserted first-end-first or second-end-first with respect to the second enclosure. Claims 16-17 and 19-20 also contain this limitation through dependency. Therefore, Applicant submits that Claims 15-20 are allowable over the cited references on this basis.

**a.      Claims 17 and 20**

In addition, Claim 17 and Claim 20 each contain the following limitation:

*circumferential grooves formed in a lower portion of the exterior  
surface of said upper enclosure ... wherein the upper and lower  
enclosures are constructed of a rigid insulating foam material*

Since no combination of the cited references teaches or suggests forming grooves on an enclosure constructed of rigid foam material, Applicant submits that Claims 17 and 20 are allowable on this basis.

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**V. Conclusion**

In view of the above amendments and remarks, it is respectfully submitted that all the pending claims are in condition for allowance, and such action is earnestly solicited. If the Examiner believes that a telephone interview will help to advance prosecution of this case, she is respectfully requested to contact the undersigned attorney at the telephone number provided.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 6, 2006.

By: Tanya Kiatkulibooone



Signature

Dated: October 6, 2006

Very truly yours,

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